

ASSEMBLY BILL

No. 622

Introduced by Assembly Member Negrete McLeod

February 17, 2005

An act to amend Section 49431 of, and to repeal Section 49431.5 of, the Education Code, relating to pupil nutrition.

LEGISLATIVE COUNSEL'S DIGEST

AB 622, as introduced, Negrete McLeod. Public schools: pupil nutrition.

Existing law, operative if funding is appropriated for specified nutritional purposes, prohibits the sale of certain beverages at elementary schools regardless of the time of day and restricts the sale of certain food items on those campuses during specified times. Existing law further prohibits the sale of carbonated beverages in middle schools from ½ hour before the start of the schoolday until after the end of the last lunch period. Existing law also prohibits the sale of certain beverages to pupils in elementary, middle, or junior high schools, and at specified school events.

This bill would delete these provisions and would, instead, provide that food or beverages sold or served to pupils meet other specified nutritional standards.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 49431 of the Education Code is
2 amended to read:

1 49431. (a) At each elementary school, and in those schools
2 participating in the pilot program created pursuant to Section
3 49433.7, the sale of all foods on school grounds shall be
4 approved for compliance with the nutrition standards in this
5 section by the person or persons responsible for implementing
6 these provisions as designated by the school district.

7 ~~(b) (1) At each elementary school, the only food that may be~~
8 ~~sold to a pupil during breakfast and lunch periods is food that is~~
9 ~~sold as a full meal. This paragraph does not prohibit the sale of~~
10 ~~fruit, nonfried vegetables, legumes, beverages, dairy products, or~~
11 ~~grain products as individual food items if they meet the~~
12 ~~requirements set forth in this subdivision.~~

13 ~~(2) An individual food item sold to a pupil during morning or~~
14 ~~afternoon breaks at an elementary school shall meet all of the~~
15 ~~following standards:~~

16 ~~(A) Not more than 35 percent of its total calories shall be from~~
17 ~~fat. This subparagraph does not apply to the sale of nuts or seeds.~~

18 ~~(B) Not more than 10 percent of its total calories shall be from~~
19 ~~saturated fat.~~

20 ~~(C) Not more than 35 percent of its total weight shall be~~
21 ~~composed of sugar. This subparagraph does not apply to the sale~~
22 ~~of fruits or vegetables.~~

23 ~~(e) An elementary school may permit the sale of food items~~
24 ~~that do not comply with subdivision (a) or (b) as part of a school~~
25 ~~fundraising event in any of the following circumstances:~~

26 ~~(1) The items are sold by pupils of the school and the sale of~~
27 ~~those items takes place off of school premises.~~

28 ~~(2) The items are sold by pupils of the school and the sale of~~
29 ~~those items takes place at least one-half hour after the end of the~~
30 ~~school day.~~

31 ~~(d) Notwithstanding Article 3 (commencing with Section~~
32 ~~33050) of Chapter 1 of Part 20, compliance with this section may~~
33 ~~not be waived.~~

34 ~~(e) (1) This section shall become operative only if moneys are~~
35 ~~appropriated for each of the following purposes:~~

36 ~~(A) Providing nutrition policy development grants pursuant to~~
37 ~~subdivision (e) of Section 49433.~~

38 ~~(B) Support and technical assistance to school districts~~
39 ~~pursuant to Section 49433.5.~~

~~(C) Increasing meal reimbursements pursuant to Section 49430.5.~~

~~(2) The department shall file a written statement with the Secretary of the Senate and the Chief Clerk of the Assembly when funds have been appropriated to meet the conditions of paragraph (1). The statement shall state the annual Budget Act or other measure in which each appropriation was made.~~

(b) (1) At each elementary school, food or beverages that meet any of the following criteria shall not be sold or served to pupils, other than as part of a school meal program:

(A) Food of minimal nutritional value as defined in Section 220.2 of Title 7 of the Code of Federal Regulations.

(B) Food containing artificial sweeteners.

(C) Snacks or desserts that exceed 150 calories per serving, unless that snack or dessert is served in the schoolday as part of a school meal program.

(2) At each elementary school, the only beverages that may be sold or served to pupils are unflavored water, fruit juice or vegetable juice containing at least 50 percent juice with no added sugar, nectar containing at least 35 percent nectar with no added sugar, and milk. Any beverage sold or served to pupils shall not exceed 150 calories per serving, and beverages, other than water, may not exceed 12 ounces in size. A beverage containing any artificial sweetner may not be sold or served to a pupil

(c) (1) At each junior high or middle school, food that meet any of the following criteria shall not be sold or served to pupils, other than as part of a school meal program:

(A) Food of minimal nutritional value as defined in Section 220.2 of Title 7 of the Code of Federal Regulations.

(B) Snacks or desserts that exceed 200 calories per serving, unless that snack or dessert is served in the schoolday as part of a school meal program.

(C) Entree items that exceed 500 calories per serving.

(2) At each junior high or middle school, the only beverages that may be sold or served to pupils are unflavored water, fruit juice or vegetable juice containing at least 50 percent juice with no added sugar, nectar containing at least 35 percent nectar with no added sugar, beverages that contain no more than 25 grams of added sugar per 12 ounce serving, and milk. Any beverage

1 sold or served to pupils shall not exceed 200 calories per
2 serving, and beverages, other than water, may not exceed 12
3 ounces in size.

4 (d) (1) At each high school, food that meet any of the
5 following criteria shall not be sold or served to pupils, other than
6 as part of a school meal program:

7 (A) Snacks or desserts that exceed 275 calories per serving,
8 unless that snack or dessert is served in the schoolday as part of
9 a school meal program.

10 (B) Entree items that exceed 600 calories per serving.

11 (2) At each high school, beverages sold or served to pupils
12 shall not exceed 275 calories per serving.

13 (C) At each high school, 66 percent of beverages served or
14 sold to pupils shall be unflavored water, fruit juice or vegetable
15 juice containing at least 50 percent juice with no added sugar,
16 nectar containing at least 35 percent nectar with no added sugar,
17 beverages that contain no more than 25 grams of added sugar
18 per 12 ounce serving, and milk.

19 SEC. 2. Section 49431.5 of the Education Code is repealed.

20 ~~49431.5. (a) Commencing July 1, 2004, regardless of the~~
21 ~~time of day, beverages, other than water, milk, 100 percent fruit~~
22 ~~juices, or fruit-based drinks that are composed of no less than 50~~
23 ~~percent fruit juice and have no added sweeteners, may not be~~
24 ~~sold to a pupil at an elementary school.~~

25 ~~(b) An elementary school may permit the sale of beverages~~
26 ~~that do not comply with subdivision (a) as part of a school~~
27 ~~fundraising event in any of the following circumstances:~~

28 ~~(1) The items are sold by pupils of the school and the sale of~~
29 ~~those items takes place off the premises of the school.~~

30 ~~(2) The items are sold by pupils of the school and the sale of~~
31 ~~those items takes place one-half hour or more after the end of the~~
32 ~~schoolday.~~

33 ~~(c) Commencing July 1, 2004, from one-half hour before the~~
34 ~~start of the schoolday to one-half hour after the end of the~~
35 ~~schoolday, only the following beverages may be sold to a pupil at~~
36 ~~a middle or junior high school:~~

37 ~~(1) Fruit-based drinks that are composed of no less than 50~~
38 ~~percent fruit juice and have no added sweeteners.~~

39 ~~(2) Drinking water.~~

1 ~~(3) Milk, including, but not limited to, chocolate milk, soy~~
2 ~~milk, rice milk, and other similar dairy or nondairy milk.~~

3 ~~(4) An electrolyte replacement beverage that contains no more~~
4 ~~than 42 grams of added sweetener per 20-ounce serving.~~

5 ~~(d) A middle or junior high school may permit the sale of~~
6 ~~beverages that do not comply with subdivision (c) as part of a~~
7 ~~school event if the sale of those items meets all of the following~~
8 ~~criteria:~~

9 ~~(1) The sale occurs during a school-sponsored event and takes~~
10 ~~place at the location of that event after the end of the schoolday.~~

11 ~~(2) Vending machines, pupil stores, and cafeterias are not used~~
12 ~~no sooner than one-half hour after the end of the schoolday.~~

13 ~~(e) This section does not prohibit an elementary, middle or~~
14 ~~junior high school from making available through a vending~~
15 ~~machine any beverage allowed under subdivision (a) or (c) at any~~
16 ~~time of day, or, in middle and junior high schools, any product~~
17 ~~that does not comply with subdivision (c) if the product only is~~
18 ~~available not later than one-half hour before the start of the~~
19 ~~schoolday and not sooner than one-half hour after the end of the~~
20 ~~schoolday.~~

21 ~~(f) For the purposes of this section, “added sweetener” means~~
22 ~~any additive that enhances the sweetness of the beverage,~~
23 ~~including, but not limited to, added sugar, but does not include~~
24 ~~the natural sugar or sugars that are contained within the fruit~~
25 ~~juice which is a component of the beverage.~~

26 ~~(g) Notwithstanding Article 3 (commencing with Section~~
27 ~~33050) of Chapter 1 of Part 20, compliance with this section may~~
28 ~~not be waived.~~